

**COMMISSION MEETING
THURSDAY, JULY 8, 2004
DRAFT MINUTES**

Chair Niemi called the meeting to order at 1:30 p.m., at Maple Hall located in LaConner. She welcomed the attendees and introduced the members and staff present:

MEMBERS PRESENT: **COMMISSIONER JANICE NIEMI, Chair;**
 COMMISSIONER ALAN PARKER, Vice Chair;
 COMMISSIONER CURTIS LUDWIG; Kennewick;
 SENATOR MARGARITA PRENTICE, Seattle;
 REPRESENTATIVE ALEX WOOD, Spokane;
 REPRESENTATIVE TOM MIELKE, Vancouver;

STAFF PRESENT: **RICK DAY, Director;**
 NEAL NUNAMAKER, Deputy Director;
 AMY BLUME, Administrator, Communications/Legal
 Dept.;
 DAVE TRUJILLO, Acting Administrator-Licensing
 Services;
 CALLY CASS-Healy, Assistant Director-Field
 Operations;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

Chair Niemi noted that at the request of the Petitioner, the ZDI Petition for rule change would be heard first on the agenda rather than Friday. The commissioners concurred.

12. Petition for Rule Change – ZDI Gaming, Inc.:

WAC 230-30- 030, WAC 230-30-072, and WAC 230-30-097:

Cally Cass-Healy, Assistant Director for Field Operations, explained this was a petition for a rule change that was submitted by Bob Tull on behalf of ZDI gaming. It requests amendments to WAC 230-30-030, WAC 230-30-072, and WAC 230-30-097. Essentially this request is to allow a pull-tab dispensing device that also prints tickets at the point of sale. It also defines the standards that would apply in that case. She reported that staff has not had

a chance to review the petition or the device itself, and would therefore like to provide a position statement at the August meeting.

Bob Tull, Attorney for ZDI, reported that ZDI is a manufacturer of pull-tabs and has been trying to address some of the realities within that industry. He noted that as much as 2/3 of each pull-tab game ends up being unused. The operators pull them from play, but they have to keep the unused tickets for at least 90 days. Over a period of time, ZDI has been developing the technology and a system that would provide a partial solution. It will provide better record keeping and simpler regulatory controls than exist today. He also advised it would cut down drastically on the amount of paper that has to be shipped, stored and otherwise dealt with. **Mr. Tull** indicated that ZDI would be prepared to demonstrate the particular devices (there are two) at the August meeting. One is the dispenser and the other is a printer dispenser that would be operated by the licensee. He explained that a licensee would simply take the customer's money, press a button, and the machine would then print pull-tabs on demand—the pull-tab is manufactured on site at the time of sale. He assured that it would meet the physical standards for pull-tabs in this state. ZDI suggested the Commission set this over until August, at which time ZDI would provide a complete demonstration and explanation of the device, the process, the technology, and the advantages.

Chair Niemi affirmed that staff has not had an opportunity to review the device and make any kind of recommendation, which was why the Commission was agreeable to continue the petition for another month. Chair Niemi called upon Director Day to commence with his reports.

Staff Accomplishments:

Director Day reported that Licensing Technician, Isabel Corrigan completed the 2,080 hours of training to assume the permanent position of a Licensing Technician in the Licensing Services Division.

1. Review of Agenda and Director's Report:

Director Day briefly reviewed the agenda for Thursday and Friday. In addition to hearing the ZDI Petition earlier than scheduled, he requested that the Vernon Black Default be removed from the Friday's agenda. That license has actually expired; therefore the Commission would not need to take action on this default. The Chair concurred.

Budget Discussions:

Director Day advised staff intended to present a budget reduction plan for Fiscal Year 2005, as a result of the transfer of funds, and a carry-on that plan into the preliminary planning for 2006-07. He addressed the budget timeline, advising he would ask the Commission to take final action on the 2005 budget today and to provide preliminary approval regarding the proposed 2006-2007 budgets, with final approval for the 2005-2007 biennium budget to be scheduled at the August meeting.

He then provided some introductory information regarding the plan to reduce the budget. He reported the budget would require management to once again meet with some staff and deliver the news that the budget reductions were going to result in personal impacts, and he

noted the actions discussed in these meetings of course bring frustration and disappointment to the participants. Director Day affirmed that the \$2.5 million was indeed transferred from the Commission's budget on July 7, and that he has advised staff that it was time to focus on the task and plan what to do from here. He committed to openly develop a plan based on respect and fairness, to balancing the budget, and streamlining the organization. He reiterated the Commission's mission was founded on the protection of the public and noted that as a result it would be very important not to take our collective eye off that mission. From that prospective staff offered the following budget recommendation, keeping foremost in mind those services that are critical to the accomplishment of our mission to protect the public by ensuring gambling is legal and honest.

As a result of the legislative transfer from the Gambling Revolving Fund the Commission has a limited working capital balance available. Staff has concentrated on ensuring that the agency balances expenses with revenue by fiscal year 2006. Director Day noted that with the working capital balance the Commission has had in the past the agency has had the flexibility to defer license fee increases and to fund unanticipated expenses even when revenues dropped. That flexibility will decrease dramatically into the future. Staff attempted to include the following strategies in the budget and the process of developing the budget: to limit personal impact to employees and continue to maintain mission critical services, to reduce operational expenses to match revenue, to streamline the agency to prepare for the future, and to identify new initiatives to support the reductions or provide a foundation for the future. **Director Day** advised that staff has taken the approach to continue to seek opportunities to make sure to improve the Commission. Therefore, staff has not limited requests for fee increases where they are necessary and are directly connected to raising funds for operating expenses. He noted the agency is improving interagency coordination, support and consistency. There are continued improvements in agent policies, internal reviews, and interpretations to ensure we have consistency within the organization. Plans include streamlining management by increasing the number of direct reports to each supervisor and reducing the levels of management. Various levels within the organization have been dramatically reduced. Director Day recalled that in the 2003 budget the Commission had taken a first cut within the levels of management in the agency, and he affirmed the need to come back and again focus on further management cuts. He reported the agency will continue covert operations, but will attempt to find a more cost effective way of doing so. The Commission will reduce the amount of information required from licenses, and further, the Commission will reaffirm the regional structure and chain of command by reinvesting in those supervisors and their managers and their decisions and interpretations.

Building on the latest revenue and expense projections, the plan staff is presenting reduces about 21 FTE's and \$1 million net from the agency's expenditure plan in fiscal year 2006; and almost 23 FTE's by the end of fiscal year 2007. The plan relies on spending about \$1 million from the working capital balance in fiscal year 2005 in order to transition into the lower budget and fewer FTE's. **Director Day** emphasized that the process of using the working capital balance to fund ongoing agency operations has been as a result of a conscious decision that the Commissioners made and this proposal would draw down approximately \$600,000 of that working capital in 2004, in order to pay for 2004 operations.

Director Day noted the Commission has been keeping some positions open, which resulted in more savings in 2004.

Director Day reported the plan also includes a series of fee increases and a proposal for a fee to fund on-going problem gambling training and awareness services. The plan cuts eight vacant positions without layoffs in 2005. He stressed that in fiscal year 2005, the Commission would not be in a situation to have to physically lay off incumbent staff. By 2006, the hope is to have those positions transferred or vacant through one method or another by the time the Commission gets to full implementation of the plan. Staff also plans to move forward with several projects identified in the Commission's Strategic Plan as they are designed to improve the agency for the future.

Director Day touched briefly on revenues, noting that the Commission estimates revenue in a very detailed fashion and by looking at each category of licenses that are issued. Staff then looks at the historical trends, gathers information on future trends, and projects the potential revenues into the future. He briefly reviewed the Bingo license projections, noting that staff is anticipating a continuing decline which would result in continued less revenue. He also addressed pull-tab licensees, noting that staff were fairly optimistic that the decrease in the number of pull-tab licenses would level off and stabilize. **Director Day** commented about the effects of Initiative 892 that is being considered, noting that in order to be eligible to have machines under that initiative, entities would have to have a license from the Gambling Commission. He noted the house-banked card room projections continue in a direct upward trend. However, he affirmed the Commission has seen a leveling off in the number of house-banked licenses that are approved—noting a fairly consistent trend at 80 card rooms. Therefore, staff has anticipated that line staying stable in the 80 to 90 range. **Director Day** affirmed that pull-tab licenses are still the primary revenue source for the Commission, followed by a combination of house-banked card rooms and their employees, and then by Class III or Tribal gaming. He noted that the Tribal gaming percentage is projected to increase to 23 percent, up from 17 percent in the past. Subsequently, the Commission is experiencing an increase in the total budget which is funded through Tribal generated dollars—this was an issue the Commission raised in reference to the fund transfers.

Director Day demonstrated slides depicting the revenue picture from 2002 through 2007. He noted that fiscal year 2002 and 2003 were actual figures—at roughly \$13.2 and \$13.5 million. He suggested that revenues were basically going to be static, with some increases and some decreases. He also demonstrated projections for the number of licenses anticipated, and the number of tables, which has increased to 12, and the number of employees. **Director Day** reported that in 2005-06, staff anticipates the number of Tribal facilities going up to 24, and up to 27 by 2007. He also noted that between house-banked and tribal licensees, the Commission is licensing or certifying somewhere in the area of 13,000 employees.

Another component of the budget process is to determine how to normally increase revenues. One methodology would be to increase license fees. **Director Day** affirmed the Commission was limited by Initiative 601, and he noted the Commission has exempted some license fees in the past. Another methodology for increasing revenues would be to increase rates for

billing services, and, the Commission could create a new fee for problem gambling. Staff has also considered agency request legislation recommending moving the interest earned on the balance of the gambling revolving fund account to an account specifically for problem gambling. Director Day clarified that staff was recommending a limited rate increase, a quality control fee increase, as well as the problem gambling fee. Staff would not be recommending a general fee increase for fiscal year 2005. He advised that staff would be recommending that legislation be considered and supported by the Commission that would take the interest earned from the gambling revolving account to be dedicated for problem gambling—which would be a change in the Treasurer’s statutes.

Director Day addressed the term “working capital” versus “fund balance” and the commissioners desire to break the cycle of thinking that the fund balance was a surplus balance. By using the term “working capital” as supported by the non-appropriated funds statute, it clearly defines this would be the working capital that the Commission works from, similar to a checkbook concept. **Commissioner Parker** commented about working capital as an issue of terminology. He directed attention to the Olympian’s June 5, 2004, article entitled *Gambling Commission Faces Fiscal Challenges*, and in the body of that article, he noted the reporter refers to a spokesman for Governor Locke’s budget office who expressed surprise that the agency was considering cuts because the money in question was supposedly extra or left over money. He thought the agency had nearly \$4 million left over, which was more than double the agency’s estimates. He was quoted as saying “it is not a cut, it is a balance transfer.” Commissioner Parker stressed the need for public education on the Commission’s budget and what the terms mean. He believed the Governor’s representative should have taken a closer look at the Commission’s explanation of the budget. Commissioner Parker strongly supported the decision to change terminology and refer to the fund more properly as working capital. He cautioned that even with the change in terminology, it wouldn’t change the underlying realities that the agency is facing—budget cuts, layoffs, and having to scale back a level of regulatory activity that the Commission would have otherwise been able to conduct. He felt there were clearly very real and negative impacts as a result of the transfer from the Commission’s working capital account. In response to the article referenced by Commissioner Parker, **Chair Niemi** expressed her hope that the Commission would be more aggressive in contacting various newspaper and television reports that were in error. She agreed the Commission should start talking about working capital and emphasizing that the perceived “surplus” balance had been planned for and committed for future uses.

Director Day recalled previous Commission discussions about what an appropriate working capital balance should be, and noted the Commission has used OFM’s budget guidelines for non-appropriated agencies; which is approximately two months of expenditures as a recommended minimum. For the Commission, that reflects approximately \$2.2 million, with additional add-in expenditures for known 2006 increases. He noted that staff believes it is very realistic that the Legislature will have to deal with a salary increase for state employees; therefore, the Commission is targeting a three percent increase for one year. He commented that if the Commission had to put a fee in place to pay for a salary increase, the Commission would need about a year to ensure appropriate revenues were collected to pay for the salary increase. Staff projects that cost at approximately \$330,000 which would need to come from

the working capital balance. In addition, staff is aware there will be a Worker's Compensation increase resulting in an anticipated expenditure of \$30,000. With those totals, staff recommends that the Commissioners plan for a minimum of approximately \$2.5 million working capital balance.

Director Day emphasized there are some risks involved with such a low balance. He affirmed that normally the budget staff would have added anticipated expenses to that balance (beyond two months of expenses) to protect and insulate from cash flow fluctuations that might occur. The Commission's cash fluctuates on a three-month cycle. He explained it could get risky when the Commission gets to a low point, and if some of the larger expenses became a reality at the same time, the Commission could actually be in a negative balance position. Director Day believed it was reasonable to anticipate that the odds of all that coming together at one time were probably not real; however, he believed there were some substantial things that needed to be addressed. One was the alleged unfunded liability identified by the State Actuary, and the Commission's share of that is projected somewhere in the area of \$375,000. Secondly, the Commission's special agents will be eligible for the new Public Safety Employees Retirement System adopted by the Legislature last session. The system requires higher employer contribution rates and staff anticipates that would cost the agency an additional \$140,000 in fiscal year 2006. Lastly, Director Day noted that staff did not identify any funds for technological improvements in the working capital balance. Subsequently, the working capital balance is simply two-months of operating expenses, and nothing has been put into effect for the first year of wage increases. If the identified expenses actually result, the Commission would have to look at further reductions or license fee increases.

Director Day affirmed there is always a positive and a negative side to everything. He was fairly confident that within the budget constraints the Commission could continue mission critical services. He emphasized the Commission has a good track record of doing its job and will move forward with the plans which would streamline the agency and the delivery of our service. Director Day cautioned that it would probably reduce some regulatory impact to the businesses, which may imply less regulation. He anticipated reduced quarterly report violations because it may be likely the Commission won't be requiring quarterly reports, if that cost savings decision is moved forward. One positive thing that may come from this process is a permanent funding source to problem gambling, for education and training activities. Director Day noted there were also some potential negatives that may result from this budget process. The proposed plan most likely will result in a reduced statewide covert presence, reduced statistical reporting ability, reduced management oversight, and reduced promotional opportunities. Director Day expressed concern because the Commission has an excellent, largely young, well-educated, and outstanding staff that is eager to do their job well and have opportunities for advancement. If an organization is streamlined and layers are removed, it removes promotional opportunities and may very well reduce the incentive for the people to stay in the organization. **Director Day** committed to continuing to make the Commission a great place to work.

Commissioner Parker inquired if Initiative 892 were to pass, if that would impose a burden on the Gambling Commission, and if it would expand gambling activities significantly.

Director Day believed the Commission might face an immediate demand for licenses and investigations by people interested in obtaining licenses and having access to the machines. He noted the agency might not immediately have the capacity to accommodate the demand given the existing budget. **Chair Niemi** believed that if the Initiative were passed, it would be challenged, thereby allowing at least six months or more for the Commission to get prepared. **Representative Mielke** asked what the time line would be for the revenue source income if I-892 passed. Director Day responded that in the past when the Commission experienced a legislative change or something else, the Commission had a sufficient working capital balance to bring on staff in advance to be able to handle the work load until the revenues came in. The Commission hasn't had to wait until the revenue came in to hire and train staff, which would result in a delay in getting the job done. With the working capital balance as low as it will be at this point, the Commission's flexibility is extremely limited.

Director Day readdressed the reduction list, noting that staff also anticipated some reduced regulatory oversight of manufacturers, non-profit charitable licensees, and promotional activities. As those kind of impacts result, staff will be bringing rules back to the Commissioners, and the selection on which of those rules are chosen to move forward with, or not, will impact the actual end result of the budget and related work. The budget reductions will cause a slower issuance process for initial licenses. Director Day noted that the Bellingham field office has already been closed, and he anticipated a slower pace of technology upgrades. He also anticipated a reduced ability to adjust to and accommodate demands resulting from the civil service reform. It will entail a whole new personnel system coming in to place and it appears that no one is really confident as to how that is going to equate to the work that will have to be done to implement the system.

Commissioner Parker advised that he was struck by the references to a slower paced technology upgrade and inquired how that would impact the Commission. **Director Day** advised it was difficult to attach a specific result, because as the agency moves forward, staff will try to take advantage of technology where we can—the difference is there won't be anything in the working capital if there is such an opportunity. The Commission will be delaying upgrading the computer, and going to a longer cycle that may delay work output. However, in 2007, staff is still anticipating moving forward with a new information management system.

Director Day reported that the reductions were falling into several categories: staffing via eliminating unfilled positions, purchasing revisions, an operations realignment—covert operations will be blended into the Field Operations Unit, and collapsing management in that area, unless the Commission rejects the proposal. Additionally there will be reductions in management and administration, and some streamlining of the regulatory process.

Director Day described the budget plan. Essentially the working capital balance at the end of 2003 was \$6.7 million, with a plan to draw down on the working capital balance slowly over time which would have resulted in a plan that provided the flexibility to mold operations in a slower fashion while still keeping up with the demand. With the removal of the \$2.5 million, it dropped the balance to about \$3.6 million. Staff anticipates starting Fiscal Year

2005 at the bottom and has estimated revenue for 2005 at \$3.4 million. Director Day advised he was presenting a plan to use just a little over a million dollars of the working capital to fund operations; which meant the amount available to spend for operations in 2005 was approximately \$14.5 million. **Director Day** believed the plan was an aggressive budget management plan; however, it was workable. He noted the Commission had already approved a budget plan at \$14.9 million for Fiscal Year 2005, and if we did nothing else, all we would have to reduce is approximately \$400,000 in 2005. However, because the 2005 budget is the base for 2006, he noted the Commission would need to adjust the 2005 budget according to the Commission's desire, in order to plan effectively for 2006 and 2007.

Director Day described some new initiatives that staff would like to continue to move forward that also supported the reductions. He identified the Attorney General workload, noting that with the retirement of Ed Fleisher as the Tribal Relations and Government Relations Specialist, the Commission chose to eliminate that position. Because the Director has taken on much of the task of direct negotiations, that requires the Commission to rely more heavily on the Attorney General for legal assistance, which results in an increase in the money available to pay the Attorney General's services. Director Day advised that staff would also like to move forward with the Internal Auditor project to start an internal financial audit, and to look at the Commission's regulatory review processes. Director Day affirmed this would be very helpful to our policies and the agency's consistency as we move forward and to address the rules simplification project. Director Day introduced Internal Auditor Dan Kuhnly (an experienced state auditor) and affirmed that it was important for the Commission to put our operation to the level of scrutiny we expect of our licensees.

Director Day readdressed the budget plan, noting the original expenditure plan the Commission approved contained 188.7 FTE's. The adjusted plan just reviewed was \$14.5, with a reduction goal of \$400,000. Staff will be proposing some small increases in revenue at just over \$100,000 and, there are some potential cost increases proposed at approximately \$462,000. That puts the total reduction goal at about \$766,000. The proposed plan provides for almost that amount (just under \$5,000). If the Commission approves the proposed plan, the new 2005 budget would be approximately \$14.6 million and 181 FTE's. The estimated revenue is below that amount, and in order to stay in that level of expenditure, the Commission will be drawing down on the working capital balance.

The specific plan will be to eliminate unfilled positions—the Tribal and Government Relations position has been eliminated as well as other positions and/or part time positions that were not occupied. Three special agent positions will not be filled. The net reduction in FTE's is about eight personnel. Staff then added back in expenses as listed, some are mandatory, some could be optional. Staff is recommending, if the Commission approves, that \$150,000 be allocated for increased problem gambling training and awareness support in the 2005 budget. Other increased expenses related to the fees for services provided by the Attorney General, and it was noted that the State Patrol increased their fingerprint charges, which also reflects an increase for the agency. **Director Day** reported the agency has been delaying the project to simplify rules. This is a process to go through a plain language rewrite chapter-by-chapter to ensure consistency and content to make sure the Commission's rules are updated. In order to move forward with that project, monies have been allocated for

someone to lead that project and make sure it gets done. The last item addressed efficiency savings, and whether the Commission had taken any efficiency savings. Director Day affirmed the Commission did so in the last budget, approximately 2 ½ percent (by holding off on filling vacant positions).

Small increases revolved around tribal gaming and the quality control charges/regulatory fees. The rules allow the Commission to charge up to \$100 per instance, and staff advocates moving forward with that proposal. The problem gambling fee will be seen in the 2006 budget, and at this point, staff is not recommending that be affective until June 30th of fiscal year 2005. At this point, staff requests that the Commission approve an adjusted fiscal 2005 budget of \$14,641,100 with 181.9 FTE's.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to approve the **2005 budget proposal as presented by Director Day.** **Director Day** clarified that because the Commission would be relying on some of the available working capital for the 2005 budget, it would not result in immediate staff layoffs. The budget would be funded by the working capital and unfilled staff vacancies through June 30th of 2005.

Commissioner Parker said he understood that the cuts proposed bring the budget into balance; however, from a policy point of view, and in light of some of the misgivings regarding the cuts, he inquired why the Commission was not considering fee increases. **Director Day** responded the first focus and process staff went through was to look at how to reduce the budget in preparation for the \$2.5 million fund transfer/budget reduction, without first looking to a fee increase. Staff then looked at the budget legislation which contained a clause that says the Commission could not raise fees to replace excess revenues. The Commission believes there is a legal argument that fee increases tied directly to operations would not fall under that language. However, staff decided to recommend a good faith effort to comply with the spirit of that language, and to implement reductions without imposing a fee increase. The only fee increase proposed relates to problem gambling and staff recommends an allocation of \$150,000. Staff doesn't believe that the agency's regulatory operations should continue to sustain that type of service without a fee. Staff is therefore recommending a new fee to be imposed for problem gambling awareness training to relieve that burden from the ongoing agency budget. In addition, staff is requesting fee rate increases in Fiscal Year 2006 in order to sustain an acceptable level of operations and in order to minimize the amount of cuts necessary. Commissioner Parker responded that the proposal is very commendable in terms of the degree in which the staff explored the different options of how to bring the budget into balance; however, he indicated that it made him a little uncomfortable because it seemed pretty close to the line. Director Day concurred and noted that as the Commission moves forward in 2006 for instance, if some of the actuary expenses take place, and if there is a salary increase, then the Commission will almost surely have to act to raise fees to fund the direct operating expenses. Staff is recommending that when the expense faces the Commission, then staff will recommend fee increases to pay for the particular operating expenses, and in most cases, staff will reduce the budget to get in line with the money available.

Senator Prentice commented that when licensees apply for a gambling license, there is a stated fee, and until now there has been an understanding that the fees are used to fund the activities of the Gambling Commission. At no time has there been any implication that the fees would go to the General Fund. Senator Prentice believed that we needed to be extremely careful before we asked the licensees to fund a fee increase, which could then become another plum ready to be picked. She agreed the Commission needed to make a better case to OFM that there isn't any money squandered at the Commission, and to let OFM know the Commission is going to be putting everything at risk. Senator Prentice commented that if the Commission as well as other fee funded agencies imply to their licensees that fees need to go up to fund "whatever" and then say "Oops, it's going into the General Fund" ... it's a dishonest way to collect the money. She emphasized that something is going to have to change. **Director Day** affirmed the Commission's struggle, noting the history of the I-601 limitations and how that has made it very difficult because even with the small increases the Commission has been able to get with license fee increases, it has been very hard for the Commission to pass on increases because if there was a big cost increase, the Commission couldn't raise the money at that particular time. At this point, staff is advocating moving forward with a very aggressive management strategy that moves the working capital balance down to the lowest possible factor, and which incorporates a significant amount of reductions to streamline the agency. **Senator Prentice** responded that streamlining was one thing; but, she was also considering all of the background checks and scrutiny licensees go through every month. She commented that in her nine years with the Commission she has been impressed with the agency's work to ensure that the industry is clean and that the public can trust it. She believed that was the kind of argument that OFM hasn't heard, but will be hearing from her and Representative Wood. **Director Day** appreciated the comments and responded that staff has focused on this as an opportunity to evaluate how the Commission does business and to find some opportunities to do things better.

Assistant Attorney General Jerry Ackerman responded to Commissioner Parker's legal question whether the Commission could in fact raise fees in light of the proviso that was included in the statute to transfer \$2.5 million. He believed the answer to be yes, noting that as he understood the legislation, the Commission could not increase fees simply for the purpose of raising \$2.5 million to replace the money that was taken from the Commission's revolving fund. However, the agency still has a statutory mandate to set fees in an amount that are sufficient to enable the Commission to perform its statutory duties. Therefore, to the extent that the Commission decides that reducing FTE's prevents the Commission from doing the things needed to ensure that gambling is legal and honest, then the Commission may increase fees to achieve the necessary monies to perform its statutory duties. If the Commission decided the quarterly activity reports addressed earlier are essential to ensure a properly regulated and honest gambling industry, then the Commission could raise fees to allow those activity reports to continue to be processed. Mr. Ackerman said the legislation doesn't prevent the Commission from raising fees as necessary to do its job, it says the Commission may not raise fees just to generate another \$2.5 million without having a regulatory purpose.

Mr. Ackerman offered a comment regarding the impacts if I-892 passed, noting that a prerequisite to getting the video lottery turntables/electronic scratch ticket machines, is of course obtaining a gambling license of some type. If I-892 becomes law, and if the machines turn out to be as lucrative as some are predicting, then a gambling license of any type will become an extremely valuable commodity. He affirmed the Commission needed to anticipate that the activities associated with the issuance of those licenses, the denial of those licenses, and the revocation of the licenses would increase. People will fight to keep their punchboard and pull tab licenses; there will be additional hearings, and increased staff time to work up the cases to support the charges. There will be additional costs for Administrative Law Judges and more appeals of those decisions through this body, and on to the court system. Licensees with punchboard and pull tab licenses will not walk away from them quietly because they will be such a valuable commodity.

With no further comments, **Chair Niemi** called for a vote on the motion. *Vote taken; the motion passed unanimously.* Commissioner Niemi called for a recess at 2:55 p.m. and recalled the meeting at 3:10 p.m.

Budget Expenditure Plan for 2006 and 2007:

Director Day reminded the Commissioners that over the proceeding years, they were aware that expenses were exceeding revenues, and had planned to balance that trend by drawing from the available working capital balance. What the Commission is faced with now (because of the transfer), is having to bring that into immediate balance within a two-year period. He displayed the budget plan just approved for 2005 and the FTE level, and the levels necessary to get through 2006. The graphs reflected a reduction of 21 FTE's and approximately a million dollar reduction in 2006. Director Day advised the same process was used for 2006 planning that was utilized for the 2005 budget processes. The 2006 reductions fall into three basic categories; an operations realignment—a consolidation of the Special Investigations Unit into the Field Operations Division, reducing management throughout the Field Operations Unit—saving just under seven positions, and a regulatory process simplification to reduce the statistical unit and consolidate it with the financial unit. It also eliminates the function of the agency coordinators and moves their duties into licensing. The net reduction through these items was about 16 positions, and then there were some additions back into the budget. The problem gambling fee comes into play in 2006 if enacted by the Commission. That rule proposal will be presented in August and it will be based on a sliding scale—the Commission may adjust it, and that number could change depending upon the costs the Commission attempts to pay for. A staff attorney and the rules simplification project would end in this budget period. Increases in fees for quality control, electronic gambling, and tribal gambling fee rates would be moved to basically match non-tribal fees.

Director Day clarified that some of the 2006 budget reductions relate to future considerations to rule changes, which may require mid-year adjustment by the Commission. There will also be some new initiatives as the coordinator positions are eliminated. Staff anticipates adding an attorney position to consolidate various interpretations and to help with consistency in the agency.

Director Day provided a preliminary glimpse for 2007, noting the adjusted expenditure plan and revenue plan would essentially be in line. The agency would move forward with the elimination of the Deputy Director's position after Deputy Director Nunamaker retires. There would be a Director and seven higher level administrators, with no layers in between—making it a very streamlined organization. There would be one supervisor for every eight special agents. There would be some billing rate fee increases and a continued problem gambling fee. Director Day noted the budget as proposed at this point does not contain a general license fee increase; however, that decision will need to be made in the year the anticipated expenses appear. In terms of new expenses, it is hoped the Commission could bring in a replacement for the existing information management system. More detail regarding the 2007 budget will be provided at the August meeting. Staff believes the proposed plan does effectively bring the Commission forward into the future, although not without some difficulty to balance the budget.

Commissioner Ludwig announced that he was satisfied and noted that the budget staff has done an outstanding job. He affirmed the plan to revisit the 2006/2007 budget as proposed for final action in August. **Chair Niemi** concurred with Commissioner Ludwig's remarks.

Chair Niemi noted the presence of John Daniels, Tribal Chairman for the Muckleshoot Indian Tribe and acknowledged and thanked the Muckleshoot Indian Tribe for their recent contribution of \$350,000 to problem gambling. **Chairman Daniels** responded that this was something his tribe has been contributing to for a while and he hoped to get together with other tribes to try and figure out a formula to help out in the future.

Problem Gambling Update:

Director Day addressed a memo provided by Amy Blume briefing the Commission on the status of the Commission's activity relative to problem gambling. He noted that based on the discussions last May, staff has continued to explore the concept of an interagency agreement with the Department of Social and Health Services (DSHS) for the provision of training and awareness and a 1-800 help-line. Staff is exploring an interagency agreement to see if that could be an effective method of delivery. The contacts with DSHS have been positive and staff also received an expression of interest from the Lottery and Horse Racing Commission. Public discussion on a potential problem gambling fee was initiated this morning during the study session. Director Day reminded the Commission that they approved \$150,000 in funding for problem gambling awareness and training services in the 2005 budget.

Subsequently, staff investigated the delivery system and looked at how that might work over a longer term. The Commission also recently invited the Problem Gambling Council to join the three agencies in the overall discussion. The Commission will be reporting this activity to the Senate Commerce and Trade Committee at a workshop being held on July 26.

Director Day advised that he was encouraged that there does appear to be a potential for a more comprehensive and seamless system in the future. Commission staff focused on the Commission's specific responsibility as defined in WAC 9.46 and did not address the broader areas of treatment.

Commissioner Parker commented about the Governor convening a task force regarding the problem gambling issue. **Director Day** affirmed that the Governor's office formed a task

force that he had indirectly been informed of, which is apparently scheduled to meet on July 23rd. Director Day advised that he had no direct notice of that meeting. **Chair Niemi** commended Director Day for getting together with the Horse Racing Commission and the Lottery—she thought it made a lot of sense for the three agencies to go together and work on problem gambling. Director Day advised he had a recommendation for the Commission to consider and hopefully approve; he noted the Commission approved \$150,000 for problem gambling services in 2005, and staff was recommending three primary steps. Continue to explore a multi-agency inter-agency agreement along with a more detailed description of the agreement and costs for the supplemental budget discussion relating to the 2006/2007 budget. Staff also planned to bring back a formal process for Commission decision making in August on whether to file a rule for the problem gambling fee proposal, along with an agency request legislative proposal to use the interest from the gambling revolving fund to supplement funding for problem gambling services. Director Day clarified that in relation to the multi-agency, inter-agency agreement, if that was not a successful negotiation strategy, staff would anticipate issuing an RFP for the \$150,000 approved by the Commission.

Commissioner Parker made a motion to support the Director's proposal; he believed it was a good three-part strategy. The motion was seconded by **Commissioner Ludwig**. *Vote taken; the motion passed unanimously.*

Correspondence:

Director Day addressed the State Auditor's Audit Report and congratulated the fiscal staff. Once again the Commission received a clean audit report from the State Auditor with no exceptions. The Commission received one exit item whereby the auditor recommended that the Commission increase the security on refunds, which fiscal staff implemented even before the auditor met with staff to discuss the report. Secondly, he noted the Attorney General confirmed receipt of the Commission's request for an opinion regarding the fund transfer issue. Lastly, the Commission received correspondence in response to the Commission's Attorney General opinion request from the Director of the Office of Financial Management.

Commissioner Parker questioned whether Mr. Ackerman could offer any information in terms of the processing of the opinion the Commission submitted to the Attorney General's Office. **Mr. Ackerman** responded that the request for the Attorney General's opinion has been put in line with the requests that predate the Commission's. He advised that they are processed in the order that they are received and he believed there were six requests ahead of the Commission. It is an independent evaluation and it was Mr. Ackerman's expectation that the Commission would be looking at least four, five, or six months before the opinion would come out. He advised that only certain elected officials on the state level and some of the county level officials are authorized to request an Attorney General's opinion. **Mr. Ackerman** advised that it would not be inappropriate for him to ask what the response time frame looked like from the people preparing the opinion, if the Commission desired. The commissioners affirmed.

2000-2003 Incident Survey:

Director Day explained that approximately a year ago, when the Commission was exploring the climate of cases the Commission's special agents were working in, there were a number

questions raised about the level of at risk behaviors or crimes that might occur in house-banked card rooms. Staff implemented a survey of that information to create a base line. Staff has included the 2003 information in the agenda packet. Director Day noted the information speaks for itself; however, generally speaking, across the board there has been less incidences of crimes versus people and property in places the Commission licenses. He noted this will continue to be monitored.

Monthly Update Reports:

Director Day addressed the news article titled *Pair Sentenced for Casino Scheme*, pointing out that that news article described a major investigation completed in cooperation with the Kalispel Tribal Gaming Agency, local authorities, and Commission agents. The pair involved took over \$100,000 from the Kalispel Tribe and were sentenced to prison under Federal law.

2. House-Banked Card Room Reviews:

Cable Bridge Casino, Kennewick:

Dave Trujillo presented the pre-licensing report for the house-banked public card room application for BEVL doing business as the Cable Bridge Casino. They are seeking house-banked card game approval for 12 tables and a punchboard/pull-tab Class H license. The Cable Bridge Casino is located in Kennewick. On January 30, 2004, the Secretary of State issued the Certificate of Formation to BEVL, LLC. The premise location was previously occupied by Cleopatra's Cable Bridge Casino. At the present time Cable Bridge is owned by James and Louene Brown, Edward and Vivian Forks, Ronald and Laurie Forks, and Judith Forks. James and Louene Brown, Edward and Vivian Forks, Ronald Forks and Judith Forks all hold a substantial interest in Aces Sports Bar Casino.

Special agents from the Commission conducted criminal and personal history background checks on all substantial interest holders and their spouses. The Financial Investigations Unit initiated and completed a financial investigation on both the LLC and member finances to determine no possible hidden ownership; that all stockholders, officers, and owners were identified and examined; and the background checks did not disclose any information that would preclude the applicant from receiving a license. The sources of funds were identified and appropriate documents were received and reviewed for accuracy. No information was found that would preclude any substantial interest holder or the corporation from involvement in the operation of a house-banked card room.

On June 11, 2004, Special Agents completed an on-site preoperational review, which consisted of an examination of the administrative and accounting controls, forms and records, surveillance, security, organization of the gaming operation and game rules. Controls in these area were compared to the administrative rules and it was determined the controls were adequate and in compliance with the rules. The applicant proposes to operate the following card games: three Blackjack tables, three Spanish 21 tables, one Fortune Pai Gow table, one Texas Shoot Out table, one Four Card Poker table, and three Poker Tables. They have also requested approval for operating hours to be 10:00 a.m. to 6:00 a.m. Based on the results of the investigation, staff recommends that BEVL, LLC, d/b/a Cable Bridge Casino, be licensed

as a house-banked card room authorized to operate up to 12 tables with a maximum betting limit of \$100, or as allowed under the current rule of Washington Administrative Code 230.40.120. Mr. Trujillo introduced the following representatives from the Cable Bridge Casino: Edward and Vivian Forks, Robert and Diana Garapy, and Dave Malone.

Mr. Malone, from the Frank Miller Law Firm representing the Cable Bridge Casino expressed appreciation for Commission staff's professionalism and courtesy in getting the application processed. He indicated it exceeded any standards that he had ever had with other applicants.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to license BEVL, LLC, d/b/a/ Cable Bridge Casino as a house-banked card room authorized to operate up to 12 tables with a maximum bet limit of \$100 or as otherwise allowed by Commission rules. *Vote taken; the motion passed with three aye votes.*

House-Banked Card Room Status Report:

Mr. Trujillo reported the approval of the Cable Bridge Casino, brings the total of licensed and operating house-banked card rooms to 84. An additional four are licensed but are not operating, and there are a total of 10 house-banked applications pending investigation.

Commissioner Parker asked if it would be possible to include an additional data category in the future which would focus on the concentration of ownership and asked staff to provide a matrix that would identify how many of the licensees own or hold an interest in multiple licenses. The commissioners concurred the information would be beneficial on a quarterly basis, or when significant changes occur.

3. New Licenses, Changes, and Tribal Certifications:

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to approve the new licenses, changes, and Class III tribal certifications as listed on pages one through 53 on the approval list. *Vote taken; the motion passed with three aye votes.*

4. Defaults:

Vernon Black, Class III Revocation, Muckleshoot Indian Casino:

As previously noted the default was removed from the agenda.

Aja Johnson, Class III Revocation, Muckleshoot Indian Casino:

Amy Blume advised that staff was requesting this certification to be revoked. She explained that the tribe licenses individuals and the state certifies them. Ms. Johnson was a Tribal Lottery Assistant Attendant, and she had an overage of \$100 in her bank. Ms. Johnson took that money and failed to report it to the Muckleshoot Indian Tribe. Therefore, the Tribe revoked her license. She is not currently working in a gambling related capacity. The reason staff is asking for the revocation is because Ms. Johnson could apply for a transfer to another house-banked card room or tribal casino. Ms. Blume advised that charges were issued and sent by first class mail. Staff attempted to contact Ms. Johnson to advise Ms. Johnson that

her response was due. Staff was not successful in their attempts to contact her, and the charges were not returned, and they are therefore assumed to have been received. Staff is recommending that the Commission revoke Ms. Johnson's Class III certification. **Chair Niemi** inquired if anyone was present to represent Ms. Johnson or respond to the charges. There were no responses.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to adopt the findings of fact and decision to revoke Aja Johnson's Class III Certification as presented. *Vote taken; the motion passed with three aye votes.*

Saem Choup, Card Room Employee Denial, Freddie's of Fife:

Amy Blume reported that staff was requesting the Commission deny Ms. Choup's application because she failed to fully disclose her criminal history on her application. She was the subject of a bench warrant up until July 8th. Charges were issued by first class mail and staff's attempts to contact Ms. Choup were not successful. By failing to respond to the charges Ms. Choup waived her right to a hearing. Staff therefore recommends that the Commission deny Saem Choup's application. Ms. Blume addressed Fact #6, on page 3, noting that as of June 1 the warrant was still active; however, it was quashed as of July 8th. Ms. Blume clarified that Ms. Choup had four additional traffic infractions, three gross misdemeanors, and owed approximately \$1,200 in unpaid fines. She had two failures to appear, two bail forfeitures, and at the time was subject to a bench warrant for failure to appear or pay the fine in connection with the March 2003 charge of driving while her license was suspended. Ms. Blume reiterated that given the facts, staff recommended that the application be denied. **Director Day** verified that the actual statement of charges addressed the failure to accurately report the charges and convictions, not necessarily the context of them. Ms. Blume affirmed. **Chair Niemi** inquired whether Ms. Choup or anyone else was present to speak on behalf of Ms. Choup. There was no response.

Commissioner Ludwig made a motion, seconded by **Commissioner Parker** to deny Ms. Choup's application for a license to conduct gambling activities. *Vote taken; the motion passed with three aye votes.*

Red Fir Inn, Yacolt:

Amy Blume reported that staff was requesting that the license for the Red Fir Inn be revoked based on their failure to submit their quarterly activity reports on time. The findings of fact reveal they have a long history of such—they have been late the last nine quarters in a row. Staff contacted the licensee, and they submitted their quarterly activity report, but they did not request a hearing or respond further as required. An employee advised that she would have the owner call the Commission; however, staff did not hear from the owner. Under those circumstances, Ms. Blume advised that the Commission sends a Special Agent to the business to make sure the licensee is still in business and that they understand what is going on. The Agent was told the licensee would be contacting the Commission, they have not, and they are still operating. Based on not requesting a hearing, staff would request that the license be revoked. **Chair Niemi** inquired if anyone was present to represent the Red Fir Inn, there was no response.

Commissioner Parker made a motion seconded by **Commissioner Ludwig** to enter a Default Order revoking the Red Fir Inn's license to conduct gambling as recommended by staff. *Vote taken; the motion passed with three aye votes.*

5. Other Business/General Discussion/Comments from the Public:

Chair Niemi called for comments from the public.

Steve Michels, President of the Recreational Gaming Association, announced the RGA recently had its annual elections. He introduced the current Board of Directors as follows: Steve Michels-President, Vice President Steve Griffiths from PJ Pockets, Secretary-Treasurer Jo England from The Last Frontier, and Second Vice President/Sergeant of Arms Pat Hosier from Wizards. Other Board Members are: Past President Gary Murrey, Max Faulkner, Dan Hilger, and George Teeny. Dolores Chiechi continues to serve as Executive Director. **Chair Niemi** congratulated the new board.

Monty Harmon, Harmon Consulting, advised that he is involved in the submission of applications and assisted licensees with compliance issues as a supplier. Mr. Harmon addressed the proposed budget reductions and recalled the reductions from a couple of years ago, advising that he was a product of one of those situations. The net result was to eliminate five positions—he commented that each person had 10-years or more experience with gambling and/or regulation. He noted that over half of those individuals are no longer with the agency. He indicated that he was concerned regarding the ability for the Commission to retain well-trained agents to provide the best service possible to the community. Mr. Harmon specifically addressed the coordinator positions. He stated that Card Room Coordinator Keith Whitmers provides an invaluable resource to the licensees because he understands the card room industry and can answer their questions. Mr. Harmon believed eliminating that position would result in a need for additional Special Agent training to ensure consistency across the state. He also addressed the Non-profit Coordinator, noting that Brain Lane really understands the applicable rules and is trained in detail in those areas. Lastly, he addressed Special Agent Jim Dibble's training relating to surveillance, digital surveillance, and electronic information recovery. Mr. Harmon encouraged the Commission to consider other alternatives to these reductions if at all possible.

6. Executive Session:

Chair Niemi recessed the meeting at 4:15 p.m., to conduct an executive session to discuss pending investigations, tribal negotiations, and litigation. She announced no public action would be taken. At 4:45 p.m., Chair Niemi recalled the public meeting and announced that Friday's meeting would commence at 9:30 a.m.; with no further business Chair Niemi adjourned the meeting at 4:46 p.m.

Minutes submitted by,

Shirley Corbett
Executive Assistant

**COMMISSION MEETING
FRIDAY, JULY 9, 2004
DRAFT MINUTES**

Chair Niemi called the meeting to order at 9:30 a.m., at Maple Hall located in LaConner. The following members and staff were present:

MEMBERS PRESENT: **COMMISSIONER JANICE NIEMI, Chair;**
 COMMISSIONER ALAN PARKER, Vice Chair;
 COMMISSIONER CURTIS LUDWIG; Kennewick;
 REPRESENTATIVE TOM MIELKE, Vancouver;

STAFF PRESENT: **RICK DAY, Director;**
 NEAL NUNAMAKER, Deputy Director;
 AMY BLUME, Administrator, Communications/Legal
 Dept.;
 DAVE TRUJILLO, Acting Administrator-Licensing
 Services;
 CALLY CASS-Healy, Assistant Director-Field
 Operations;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

7. **Approval of Minutes:** Regular Meeting of May 13-14, 2004, in Spokane.

Commissioner Ludwig made a motion seconded by Commissioner Parker to approve the regular meeting minutes of the May 13 and 14, 2004, meeting as presented. *Vote taken; the motion passed with three votes.*

8. **Petition for Rule Change: Bonanza Press – Carry-Over Jackpots for Event Pull-Tabs: WAC 230-30-033:**

Amy Blume, Administrator, Communications and Legal Division, explained this petition deals with a pull-tab game that is played with Bingo, noting they are called event pull-tabs. The rule is up for final action—it was filed at the April Commission Meeting by Petitioner Roger Wendland. Mr. Wendland is a sales representative for a manufacturer called Bonanza Press. The petitioner would like the Commission to allow a new kind of pull-tab game which

would combine two types of pull-tab games that are already allowed; event pull-tabs and progressive pull-tab games. Event pull-tabs were first allowed in March of 2001; however, they are only allowed for charitable non-profit organizations. They are called event pull-tabs because the event is actually the Bingo game. Ms. Blume provided an explanation on how the event is played, and she noted the pull-tab game sets are frequently very small, explaining that they typically sell out during a Bingo session. Staff has been advised they have been quite popular. The second type of game is a pull-tab carry-over game. It's played like a regular pull-tab but it also has a possible jackpot. If the jackpot is not won, it is carried over into the new game. This petition combines the two concepts.

Ms. Blume advised that staff doesn't have any regulatory concerns, and noted that it probably wasn't allowed as an option initially in 2001 simply because the other two games were already new at the time. She noted that in April, when the petition was filed, Don Kauffman asked the Commission to consider passing the rule and making it effective 31 days after filing rather than January 1, 2005. Ms. Blume advised that staff was fine with that recommendation. **Commissioner Parker** commented that the Bingo industry needed all the help it could get, and this sounded like a little bit of help.

Roger Wendland, Petitioner, requested that if the Commission chose to adopt this rule, he would also ask the Commission to make it effective 31 days from filing. He advised they had games that would be ready immediately upon approval.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to adopt the amendment to WAC 230-30-033 as presented to be effective 31-days after filing. *Vote taken; the motion passed with three aye votes.*

9. Logo Cards:

WAC 230-40-070:

Ms. Blume reported this rule was submitted at the request of several licensees, and is up for final action. Ms. Blume explained that logo cards are unique to a particular card room—they provide a security feature by ensuring that cards can't be introduced from other outside games or cards that someone has purchased at a store. The number of manufacturers doing business in the state has decreased which is making the logo cards harder to find. Several of the Class E and F card rooms are asking the Commission to consider being able to use cards without logos.

The rule proposal has been reworded—it would continue to require that house-banked card rooms continue to use logo cards. The new language requires that all games that offer player-supported jackpots (PSJ), which is the player's money, to use logo cards. Licensees have indicated that they would rather not have logo cards for Poker games. **Ms. Blume** affirmed the agency's Rules Team has reviewed the logo card issue and they believe it does provide a security feature. Staff understands that getting these cards is becoming more difficult; however, they still feel it is an important feature to retain. The rule change would assist about six licensees. Staff recommends final action, and also asks the rule be effective 31-days after filing.

July 8-9, 2004

Draft Commission Meeting Minutes

Page 19 of 24

Commissioner Ludwig inquired if the card rooms were prepared to comply with the rule within 31 days. **Ms. Blume** affirmed because it would lessen the requirements for six licensees. **Chair Niemi** called for public testimony.

George Teeny, card room owner of The New Phoenix and Last Frontier in the LaCenter area, agreed that logo cards give the ultimate protection in any card game. He emphasized that by no means were the licensees looking to prevent logo cards to be used for house-banked Black Jack games. However, the Poker decks from the manufactures are unique to casinos; he noted that one cannot purchase them on the open street. Mr. Teeny also explained the way the card destruction is set up, that when the cards can no longer be used on the tables because of age, the licensee must destroy them. That is accomplished in a variety of ways; by punching a hole through the deck, or cutting out half moons on the side, or burning, cutting or marking them. The cards cannot be slipped back into the game. Mr. Teeny affirmed that having logo cards would be ideal—that has been the standard in the country. However, because logo cards are so difficult to get in the quality needed, corporations that own approximately 35 percent of the casinos in Las Vegas have gone to non-logo cards (for Poker) because they can't find them in the desired quality. He advised that plastic cards that are constructed the wrong way tend to snap instantaneously. If they are bent at a 30-degree angle, they will break, or they will be marred on the back. Mr. Teeny affirmed that the number one company no longer makes plastic logo cards.

Mr. Teeny advised that he had reviewed the rules. He noted that the primary concern besides the overall day-to-day play of the game is the PSJ. He affirmed the licensees have a fiduciary agreement to protect this money for the players, and he emphasized they also don't want to see any corruption. Mr. Teeny advised that he has added extra verbiage to the rule to give it the necessary security measures, and that he would like to share the changes with staff. He asked the Commission to put this rule off for at least another 30 days in order to review the proposed changes with staff.

Chair Niemi called for questions. **Commissioner Ludwig** questioned why there were two different sizes of cards for Black Jack and Poker. **Mr. Teeny** believed it was for game protection—in Poker players are constantly handling the cards, in Black Jack they are laid out and players don't touch them.

Chair Niemi called for further public comments and there were none. She inquired if staff would have any concerns in reference to holding the matter over an additional month. **Ms. Blume** and **Ms. Cass-Healy** supported holding the matter over until August and the Commission affirmed.

10. Digital Surveillance in Card Rooms:

WAC 230-40-625 and WAC 230-40-825:

Cally Cass-Healy reported that both WAC's were up for discussion only. The proposed changes to the two rules are exactly the same. She explained that several of the rules in WAC 230-40-625 and WAC 230-40-825 were updated to match current practices.

Subsection 3 (b) 2 continues to require the recording system to be locked but not necessarily

by the manufacturer. That turned out to be something that was not industry practice; however, it ensures that only authorized persons have access to the system. Subsection 3 (b) 3 allows motion-activated recordings; this was a technological advancement. Subsection 3 (b) 6 allows for different resolution requirements for recording images as long as the playback requirements are met. Subsection 3 (b) 8 is housekeeping in nature only. Lastly, Subsection 4 clarifies that multiplexing devices are not allowed to record drop box movement—she noted that staff was very concerned about the movement of the money.

Chair Niemi called for questions and/or public comments.

Steve Michels, President of the RGA, explained that the RGA Rules Team had concerns about the off-site remote viewing. **Chair Niemi** inquired if the concern related to Subsection 4, the multiplexing issue. Mr. Michels responded that the concern he wished to address related to WAC 230-40-825. He noted the RGA supports the technological advances; however, their concerns relate to the way remote offsite access would be allowed. Mr. Michels advised that a lot of organizations would like to have some type of access that could be gained through digital surveillance, which would also encourage licensees to move towards digital surveillance. He believed further clarification on the rules would help the licensees know exactly what would be allowed. Mr. Michels suggested it was too much of a gray area right now for a lot of the licensees.

George Teeny, a licensee from the LaCenter vicinity, clarified that instead of having the surveillance department on site where the mini-casinos are, there has been some discussion to allow them off-site so things may be reviewed from a different area. The RGA suggested they would like to have an opportunity to review the rule with staff—some of the initial discussions were held at a quarterly meeting and the licensees were not clear on the actual changes being proposed. **Ms. Cass-Healy** affirmed the rule had been discussed with the RGA at one point and she affirmed staff would be willing to look at it again. She advised that today's changes were not intended to address the off-site concerns expressed—she commented that it is not allowed.

Chair Niemi called for further comments or public testimony.

Commissioner Ludwig commented that he was confused because one section of 825 stipulates that multiplex devices will no longer be allowed to record drop box movement; then, Subsection 4 states that quad recording devices may be used to record movement of drop boxes between tables and the count room. **Ms. Cass-Healy** affirmed, clarifying a quad is very specific—one may see four different screens or on four different pictures on the screen, but it is recorded separately. The pictures are captured separately on separate recordings, which is why that is allowed. Commissioner Ludwig verified that quads and multiplexes aren't the same. Ms. Cass-Healy responded that a quad can be a multiplex; however, it has everything to do with the way they are actually recorded versus the way they are seen on the screen. **Director Day** verified that a multiplex in effect does not track the full movement; it may miss sequences in the movement. Ms. Cass-Healy affirmed that related to the rate of recording, and not necessarily how it's defined. She supported staff taking another look at the language to clarify the rule.

Representative Mielke inquired if there was an advantage to moving to this method and if there had been a request to do this. **Ms. Cass-Healy** responded that concern was that they actually not record multiple pictures. The concern was more that that trail was very clear and recorded separately.

11. Merchandise Prizes for Pull-Tab Games – Removing Pricing and Credit Restrictions:
WAC 230-12-330 and WAC 230-12-340:

Ms. Cally Cass-Healy reported these rules are up for discussion only. This was a result of a petition originally submitted by Spokane Pull-Tab—they noted that unlicensed individuals were selling merchandise prizes that did not fall under our requirements. This change would remove the requirements from merchandise prizes pricing restrictions. While the petitioner's original intent was to make sure that everybody who sold merchandise prizes was licensed, staff didn't feel that the Commission had that authority. Staff is proposing a counter proposal to just take away the restrictions from merchandise prizes altogether. Item 11-B is being proposed for the same reasons—to remove restrictions from selling punch-board, pull-tab prizes on credit. **Ms. Cass-Healy** advised that staff didn't have any regulatory concerns about the rule package.

Commissioner Niemi called for further comments and public testimony. There was none.

12. Petition for Rule Change – ZDI Gaming, Inc.:
WAC 230-30-030, WAC 230-30-072, WAC 230-30-097:

Chair Niemi noted this item was addressed on Thursday at the request of the petitioner. She noted the rule would be heard again in August and she inquired if there were any additional public comments—there were none.

13. Licensure of Digital Surveillance Installers:
WAC 230-02-205:

Ms. Cass-Healy explained that WAC 230-02-205 was up for filing and discussion. Recorded surveillance is an integral part of card room security and an internal control feature. Because of that, staff believes that persons who have access to the digital surveillance system or data files need to be licensed. Staff wants to be able to conduct background checks on them in order to fully know who is in the gambling industry. In addition, individuals with access are in a position to manipulate the system and the Commission currently would have no recourse against these individuals if something should occur. **Chair Niemi** called for public comments.

George Teeny, licensee located in LaCenter, advised that he absolutely agreed with **Ms. Cass-Healy** that surveillance was the backbone for protection in the gaming industry. However, he wanted to amend some of staff's recommendation or some of the language. The original language can be interpreted to say anyone is allowed to enter the surveillance room. Licensees want to make it more specific by adding something that says persons having access to the operating system or files providing installation, integration, maintenance or any other services of digital surveillance systems would be allowed. He thought the

verbiage change would make thing better for the industry as well as for the Commission, and he confirmed that he would be willing to work with staff on the final language proposal.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to file the rule proposal for further discussion. *Vote taken; the motion passed unanimously.*

Ms. Cass-Healy noted that currently there are three stand-alone digital surveillance systems installed in the industry; two house-banked card rooms and one tribal facility. There are four redundant systems, the facilities have installed the digital system and they are running it in conjunction with an analog system and will be transitioning. Additionally, there are 21 different entities looking at or currently installing digital surveillance, so it has become quite prevalent in the industry.

14. Betting Rounds:

WAC 230-40-120:

Ms. Cass-Healy reported that WAC 230-40-120 is also up for filing and discussion. Staff is requesting this amendment to clarify the wagering amount allowed for each betting round. The proposed language under Subsection 6 reads that “a single wager may be placed on each decision made by the player before additional cards are dealt or revealed.” This is consistent with language already in 230-40-010 1-C, which explains that each player is responsible for their own decisions on each hand, which is part of what makes it a social card game under our laws. Decisions include whether to fold, discard, draw additional cards or raise the wager. This rule is before the Commission in order to make the requirements with house-banked card games consistent with those of tribal casinos. They already set betting round limits based on separate wagers for separate decisions. She provided an example using the game Caribbean Stud, which requires an ante bet and a call bet. The call wager must be twice the ante wager. Under the current rule with \$100 betting limit, the maximum wager that would be allowed would be \$33 for the ante and \$66 for the call bet, making it under the \$100 maximum for that particular betting round. The proposed change would allow the same round at \$50 for the ante bet and \$100 for the call because they are both separate decisions during that betting round. Staff is recommending filing for further discussion.

Commissioner Parker made a motion seconded by **Commission Ludwig** to file WAC 230-40-120 for further discussion. *Vote taken; the motion passed unanimously.*

15. Other Business/General Discussion/Comments from the Public:

Chair Niemi called for comments from the public today?

Steve Michels, Chips Casinos, addressed the question about the different card sizes for Poker cards and other house-banked cards. Some of the 30-year veterans in the gaming industry have advised that because players may touch their Poker cards (they could not in the old days), and players usually do not touch the house-banked cards, the industry developed separate sized cards so that a Poker card could not be introduced into a house-banked game.

Secondly, **Mr. Michels** clarified that Michel's Development, LLC, is a card room company that he owns 100 percent of as Washington resident. He noted that newspapers keep incorrectly reporting that Michel's is a Henderson Corporation. There is a company that had an office in Henderson which was Michel's Development Company which was owned by his mother—it is a dormant company, and actually that company is in Minnesota.

With no further business, **Chair Niemi** adjourned the meeting at 10:15 a.m. She advised the next meeting was scheduled for August 12 and 13, 2004, at the Heathman Lodge located in Vancouver.

Minutes submitted by:

Shirley Corbett
Executive Assistant